for The Defense

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The Training Newsletter for the Maricopa County Public Defender's Office ⋈ Dean Trebesch, Maricopa County Public Defender

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PROHIBITED POSSESSOR OR NOT? (OLDER IS BETTER)

Retroactive Application of Statutory Amendments Violates Ex Post Facto Clauses

By Marci Hoff
Deputy Public Defender

Your client is charged with misconduct involving a weapon, under A.R.S. §13-3102(A)(4), for possessing a gun while considered a "prohibited possessor." According to the state, your client is a prohibited possessor because of a conviction for possession of drugs in early 1994. The client insists that he was advised, before pleading to the drug charge, that the conviction would not prevent him from possessing a weapon. What's going on here?

Prior to July 1994, a felony conviction did not automatically suspend one's civil right to possess a weapon. The right to possess a weapon was suspended only if the conviction was for a violent or dangerous felony. On July 17, 1994, the prohibited possessor statute was amended, suspending the right to possess a weapon to *all* felony convictions. A.R.S. §13-904(A) was also amended to add the right to possess a gun or firearm to the list of civil rights that are suspended upon conviction for a felony. The County Attorney's Office currently pursues the prohibited possessor charge against all felons, regardless of the date or type of conviction.

Since the right to possess a weapon is a substantive right, retroactive application of A.R.S. §§13-904 and 13-3101 to pre-July 1994 convictions violates the *ex post facto* clauses of the United States and Arizona Constitutions. *See* U.S. Constitution Art.1, §§9 and 10; Arizona Constitution, Art. II, § 25.

Amendments Are Not Retroactive

The 1994 amendments to A.R.S. §§13-904 and 3101 did not provide for retroactivity. Both A.R.S. §§13-904 and 3101 became effective on the general applicability date of July 17, 1994, as the legislature did not expressly declare these statutes to become effective on another date. "No statute is retroactive unless expressly declared within." A.R.S. §1-244. The retroactivity clause of A.R.S. §1-244 applies to criminal statutes. *State v. Stevens,* 173 Ariz. 494, 844 P.2d 661 (App. 1992). A pre-1994 non-violent felon's right to possess a gun was not suspended as the current A.R.S. §§13-3101 and 904 were

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not in effect at the time the conviction occurred. The 1994 amendments clearly changed the penalties for a felony conviction and the elements constituting a prohibited possessor. These elements and penalties cannot now be applied to a case adjudicated prior to their enactment, suspending one's right to possess a weapon. A statute will not govern events which occurred before its effective date, unless the statute provides otherwise. *State v. Broughton*, 156 Ariz. 394, 400, 752 P.2d 483, 489 (1988); *State v. Gonzales*, 141 Ariz. 512, 687 P.2d 1267 (1984); A.R.S. §1-244. Thus, anyone convicted prior to 1994 for a nonviolent felony never lost their right to possess a weapon.

Ex Post Facto Laws are Constitutionally Prohibited

The constitutional prohibition against *ex post facto* laws forbids the enactment of any legislation "which imposes a punishment for an act which was not punishable at the time it was committed; or imposes additional punishment to that then proscribed." *Cummings v. Missouri*, 4 Wall 277, 325-326, 18 L.Ed. 356 (1867); see also *Weaver v. Graham*, 450 U.S. 24, 101 S.Ct. 960, 67 L.Ed.2d 17 (1981); U.S. Constitution, Art. 1, §9; Arizona Constitution, Art. II, §25. The purpose of the *ex post facto* clauses is to guarantee that laws give fair notice of their effect and to allow citizens to rely on their meaning. *Weaver v. Graham*, 450 U.S. at 28-29, 101 S.Ct. 964. A law violates the *ex post facto* clause if it: (1) is retrospective, applying to events before its enactment, and (2) disadvantages the offender effected by it. Id.

The *ex post facto* clause of the Arizona Constitution is similar to that of the United States Constitution, which provides a useful framework in which to interpret the clause. *State v. Noble*, 171 Ariz. 171, 173, 829 P.2d 1217, 1219 (1992), citing *State v. Yellowmexican*, 142 Ariz. 205, 688 P.2d 983 (Ct. App. 1984), adopted and approved 142 Ariz. 91, 688 P.2d 983 (1984). The United States Supreme Court has held that the *ex post facto* clause forbids:

> "1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, . . ." *State v. Noble, supra*, quoting *Calder v. Bull*, 3 U.S. (3 Wall) 386, 390, 1 L.Ed. 648 (1798) (opinion of Chase, J.).

The amendments to §§13-904 and 13-3101 meet the second and third definitions of an *ex post facto* law under Calder: they aggravate one's felony conviction by increasing and changing the punishment that was imposed prior to 1994. The amendments are retroactively applied to one's civil status as they (1) apply to a conviction occurring before their enactment, and (2) disadvantage the felon by suspending his right to possess a weapon. See, e.g. *State v. Noble*, 171 Ariz. at 174, 829 P.2d at 1220, (court held that requirement of sex offender registration, even if defendant convicted after statute was enacted, is contrary to the purpose of the *ex post facto* clause, and the registration requirement altered the situation to the defendant's disadvantage). The application of the 1994 amendments to one's right to possess a weapon inherently contradicts the intention of the *ex post facto* clauses. This applicability to pre-1994 non-dangerous felonies gives no notice to those who had a vested civil right to possess a weapon. The suspension of the right to possess a weapon is punitive and effects an earlier established substantive right to bear arms.

The Amendments Apply to a Substantive Right

Interpreting the *ex post facto* clauses, the courts have agreed that retroactivity may not be applied to vested or substantive rights. Although not precisely defined, it is generally agreed that a "substantive" law creates, defines or regulates rights, while "procedural" statutes prescribe the method of enforcing these rights. *Allen v. Fisher*, 118 Ariz. 95, 96, 574 P.2d 1314, 1315 (App. 1977). Clearly, suspending the right to possess a weapon regulates just that: a right. The retrospective application of the amendments, taking the right to possess a gun for a felony conviction, alters the situation to the felon's disadvantage. See, e.g., *State v. Noble*, 171 Ariz. at 174, 829 P.2d at 1220 (mandating registration was disadvantageous); *Miller v. Florida*, 482 U.S. 423, 430-32, 107 S.Ct. 2446, 2551-2452, 96 L.Ed.2d 351 (1987) (change in sentencing guidelines disadvantageous).

The retrospective application of the amendments, taking the right to possess a gun for a felony conviction, alters the situation to the felon's disadvantage.

The Suspension of the Right to Possess a Weapon is Punishment

In the final analysis of *ex post facto* prohibition, the suspension of the right to possess a weapon constitutes punishment. In deciding if the enactment of a statute is punitive or regulatory, the focus lies on the intent of the

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legislation: if the intent is non-punitive, further inquiries must be made to determine if the statutory scheme is so punitive as to negate the purpose. *State v. Noble*, *supra*, citing *United States v. Ward*, 448 U.S. 242, 250, 100 S.Ct. 2636, 2641, 65 L.Ed.2d 742 (1980). Further, absent conclusive evidence of a penal intent, Arizona has weighed the factors outlined by the United States Supreme Court in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 83 S.Ct. 554, 9 L.Ed.2d 644 (1963). *State v. Noble*, *supra*. The factors, referred to as the *Mendoza-Martinez* factors, include:

> "Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of scienter; whether its operation will promote the traditional aims of punishment -- retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned . . .." 372 U.S. at 168-69.

Under this criteria, amended §§13-904 and 3101 are punitive and cannot be applied retroactively, because:

> 1. Loss of the right to possess a weapon is a restraint which is associated with criminal punishment. Just as in *Cummings*, the loss of the right to possess a weapon is imposed as an additional punishment. See *Cummings v. Missouri*, 71 U.S. (4 Wall) 277, 18 L.Ed. 356 (1866) (Missouri constitutional provision disqualifying person from ministry, teaching, law practice, and other callings operated to impose additional punishment for past crimes). It is clear under §13-904, a felony conviction disqualifies one from voting or holding office; and the 1994 amendment further deleted the right to possess weapons.
>
> 2. The suspension of civil rights has been typically viewed as punishment. The full privileges to which Americans are entitled are diminished for a felony conviction. The suspension of the right to bear arms promotes the traditional sentencing goals: punishment and deterrence.
>
> 3. Suspension of the right to possess a weapon applies to a particular class: those convicted of a felony. Most felony offenses require a finding of some amount of scienter.
>
> 4. The suspension of rights has been treated as a punitive factor previously in Arizona. Prior to 1994, the right to possess a weapon was suspended for violent and dangerous felonies. Further, the suspension involves the abrogation of a right guaranteed under the Constitution. See U.S. Const. Amends. II, XIV.

The suspension of the right to possess a weapon clearly has a punitive effect. While the state may argue that the regulation effect of the suspension is to keep guns from criminals, the punitive effect far exceeds the regulatory effect.

Finally, prior to 1994, violent and dangerous criminals were prohibited from possessing guns. The crime rate involving guns has in no way diminished since the enactment precluding this right from all felons. As taking away this right is a punitive sanction for committing a felony, it does effect a substantive right and thus the amendments cannot be applied retroactively.

Conviction and Sentence Cannot Be Altered

Finally, the argument can be made that a pre-July 1994 plea was not voluntary and knowledgeable. The known consequences of a plea entered prior to the amendments included the loss of the right to vote, to be a juror, and to hold office; they did not include the loss of the right to possess a weapon.

Applying the 1994 amendments to a prior conviction alters the sentence which had previously been imposed. This clearly violates the constitutional intent of the ex post facto clauses: to give fair notice and warning.

In reviewing *ex post facto* cases, most applied to conduct, not convictions, occurring between the statutory changes. Applying the 1994 amendments to a prior conviction alters the sentence which had previously been imposed. This clearly violates the constitutional intent of the *ex post facto* clauses: to give fair notice and warning. See, e.g., *Weaver v. Graham*, 450 U.S. at 28-29, 101 S.Ct. at 964. To apply the 1994 amendments to all felons would give no notice to those who were convicted in 1960, 1980, or

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1993; to those who have enjoyed the full legal right to possess a weapon.

Both §§13-904 and 3101 are penal and effect an earlier established right to bear arms. In 1993, any felony did not suspend one's right to possess a firearm. To apply the amended 1994 statutes to pre-July 1994 convictions would clearly violate the *ex post facto* clauses. As a non-dangerous conviction prior to 1994 did not suspend a felon's right to possess a weapon, he cannot be a prohibited possessor under A.R.S. §13-3102(A)(4).

Your client's confusion and consternation are well-founded. In filing a misconduct with weapons charge against him, the state is violating his constitutional rights. ■

MARICOPA COUNTY ADULT PROBATION'S COMMUNITY PUNISHMENT PROGRAM (CPP) CHANGES ITS LOOK

By Randy Rice
Adult Probation CPP/CD Supervisor

The substance abuse (SA) component of Maricopa County Adult Probation's Community Punishnment Program has recently been redesigned to incorporate empirically validated treatment and intervention strategies. A significant change in treatment philosophy and purpose has resulted; providing necessary challenges to traditional thought and practice regarding illicit substance abuse and dependency.

Historically, the worlds of substance abuse treatment and offender rehabilitation have operated separately. Traditional substance abuse treatment in the U.S. has centered around the "Minnesota Model" which encompasses confrontation, spirituality, and working a 12-step program. This approach has been supported by classical psychotherapeutic models and medical models (McGuire & Priestly, 1995) and, though the approach has yet to prove valid results in curbing relapse or in instilling long-term recovery, it continues to be duplicated across the country as the treatment-of-choice for both inpatient and outpatient settings (Miller & Hester, 1995). The original design for the Chemical dependency portion of CPP adopted this model as its foundation for treatment.

Criminal intervention, on the other hand, has historical roots in deterrence through graduated punishment. Treatment for offenders within institutions became a reality in the 1960's with a collapse of the treatment ideal occurring in the 1970's. In 1974, Robert Martinson produced a document titled: "What Works-Questions and Answers About Prison Reform." In this article, he stated simply that "nothing works." Even though Martinson later recanted his position, the impact of his original statement single-handedly changed offender management practices in the U.S.. As a result, "the 1970's and 1980's returned to hard sentencing, predominance of punishment, and the handing out of just deserts to those who transgressed the law of the land" (McGuire & Priestly, 1995, p. ix).

In the late 1980's, when prisons were beginning to become increasingly over populated, recidivism was considered a universal expectation, and substance abuse was the leading cause of detention, researchers began to consider other options. It was found that 60-70% of the persons in the criminal justice system had alcohol and other drug (AOD) use issues (Wanberg, personal communication, May, 1996). Furthermore, meta-analysis studies showed that the act of "punishing smarter" (an ideal that initially occurred to increase the heat for offenders through intensive probation services, and to satisfy the public's demand for "just punishment") was proven ineffective in reducing recidivism (Gendreau, 1996; Harland, 1996).

The current trend, providing the impetus for the new CPP/SA program design, involves combining these two worlds and providing intensive treatment services that reduce both relapse and recidivism. The obvious challenge becomes identifying competent providers who can, in a sense, "wear both hats," and to clearly integrate the principles of therapeutic and correction models. In so doing, addiction is considered a behavior pattern much like criminal behavior. Fox (1995) states that "Addiction, then, may be seen as a chosen mode of behavior, often based on a lack of information and faulty judgment. It is usually accompanied by a measure of self-indulgence based on a lack of personal discipline in at least one area of life" (P.37). Researchers have shown that this description for addiction is transferable in explaining criminal behavior (Andrews, 1995; Andrews & Bonta, 1994; Gendreau, 1996) and, thus supports combined treatment effort.

The largest therapeutic power and effect has, overwhelmingly, been identified to occur in a cognitive-behavioral program that blends techniques from the emotive therapies and provides skill development training. A multimodal approach, whereby therapy focuses not only on the direct issues of criminality and AOD use, but also encompasses lifestyle factors that are related to antisocial behavior, is recommended (Andrews, 1995; Harland, 1996; Johnson Hunter, 1992; Lazarus, 1989; McGuire & Priestly, 1995; Miller & Hester, 1995). Furthermore, the program of choice is based on a Social-Learning

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perspective, as this orientation has been "shown to reduce recidivism by 29% "on the average" when combined with cognitive-behavioral programming (Andrews, personal communication, May, 1996).

The new CPP/SA program is designed to treat groups of highrisk offenders in community-based settings who suffer from AOD use problems. Robinson (1995) showed a 66.3% reduction in reconvictions from persons involved in community-based programming. The focus of treatment is helping offenders meet criminogenic needs that reinforce their desire to use chemicals and commit crimes (Andrews & Bonta, 1994; Bush, 1989; Gendreau, 1996; Harland, 1996; McGuire & Priestly, 1995), and to assist them with successful movement through the Stages of Change as proposed by Prochaska, DiClemente, and Norcross (1992)(Andrews & Bonta, 1994; Fox, 1995; Marlatt, 1985; Miller & Hester, 1995). Treatment matching, whereby; (a) offenders are matched to specific trainers or counselors, (b) the program is matched to the offenders learning style, and (c) facilitators are matched to programming based on competency level, allows for clients to be most responsive to the delivery of the program material (Andrews, 1995; Bush, 1989; Harland, 1996; Johnson & Hunter, 1992; McGuire Priestly, 1995).

The delivery of interventions is accomplished within a brief period of time (two months of pretreatment and approximately eight months of intensive, outpatient treatment), with brief being described as the "shortest group that can achieve some specified goal" (Yalom, 1995, p. 273), and is tailored to the individual need of each participant (Fox, 1995; Landry, 1995; Lazarus, 1989; McGuire & Priestly, 1995). The principles of cognitive restructuring, cognitive skill development, relapse prevention, and education to enhance social-skills within and outside of the group environment are endorsed and utilized (Bush, 1989; Fox, 1995; Marlatt, 1985; McGuire & Priestly, 1995).

Defendants who attend all sessions and pay for each session, as scheduled, will receive a check for $80.00 during a formal graduation ceremony.

The group is formed after intensive, research-based assessment has occurred (Harland, 1996; Landry, 1995; Wanberg, personal communication, may, 1996). The initial assessment is to be provided as offenders enter the criminal system. This assessment screens for recidivism risk level, chronicity of substance use, and individual criminogenic need. If all three areas are met, the defendant is referred to specialized programming, including CPP/SA for the high-risk offender. Upon intake to CPP/SA Pretreatment, a second assessment is provided by the counselor to measure cognitive functioning, amenability for treatment, and motivation/readiness for change. Pre-and posttesting, combined with self-evaluation questionnaires throughout the therapeutic process, allows for assessment of individual success and program evaluation.

The group is comprised of twelve to fifteen members and is facilitated by a single counselor. The group is closed for the initial two months while it develops a sense of safety and purpose, and while members develop their initial commitment to change. Individual success and advancement during the group process is measured by completion of identified tasks on individualized treatment plans, and completion of four phases of treatment (Please refer to the attached outline).

Pretreatment is designed to build motivation, challenge defendants to change, teach the fundamental skills necessary for CPP/SA participation, and prepare defendants for intensive group process. Defendants will provide an initial copay for this period of treatment at $10.00 per session. Research indicates that clients will stay in treatment longer and will receive additional benefit by contributing financially to the treatment process (Gendreau, personal communication, May 1996). The intention, however, is to provide defendants with a rebate upon successful completion of retreatment as an achievement reward and an incentive for continued goal setting. Defendants who attend all sessions and pay for each session, as scheduled, will receive a check for $80.00 during a formal graduation ceremony.

Phase one is intended to allow the client to explore issues of safety and trust and to develop an initial commitment to change (Miller & Rollnick, 1991; Wanberg, personal communication, May, 1996). Phase two introduces the process of cognitive restructuring through the regular use of thinking reports (Bush, 1989), and exploration of optional alternatives to undesired phenomena. Phase three is characterized by role playing high-risk situations that often trigger relapse and recidivism; teaching effective coping skills that can be transferred to other environments outside of the counseling arena (Andrews, 1995; Bush, 1989; Marlatt, 1985); and obtaining support services in the community to assist with long-term behavioral change. Phase four encompasses intensive and repetitive relapse planning, empathy training (Bush, 1989; Harland, 1996; Hester and Miller, 1995; Landry, 1995; Marlatt, 1985), and mentoring for clients in phases one and two to model prosocial behavioral change.

The program endorses the use of 12-step programming, but is not founded on the "Minnesota

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model" or any other "spiritually-based" program. The revised CPP/SA program uses empirically valid cognitive restructuring and behavioral skill training to provide clients with active and readily accessible tools to use in high-risk situations. The overall focus is to impart significant change in four key areas of the clients lifestyle; (a) changing antisocial attitudes, values and beliefs to prosocial constructs, (b) replacing antisocial associates, who reinforce criminal and AOD use behaviors, with prosocial support systems, (c) combating long histories of antisocial behavior through regular execution of prosocial alternatives, and (d) assisting clients with changes to personality factors that result in a propensity to commit crime and use illicit substances (Andrews & Sonta, 1994).

Several authors of the available research literature indicate the following interventions as effective components for treating the person with criminal conduct and AOD issues: (a) life-skills training that enhances: communication/assertiveness ability, problem-solving, interpersonal communication, social skills, career/employment success, and self-evaluation ability (Fox, 1995; Landry, 1995; Lazarus, 1989; Goldstein, 1985; Harland, 1996; Marlatt, 1985; McGuire & Priestly, 1995; Miller & Hester, 1995); (b) behavioral self-control training (Fox, 1995; Harland, 1996; Marlatt, 1985; McGuire & Priestly, 1995; Miller & Hester, 199S); (c) motivational enhancement (Landry, 1995; McGuire & Priestly, 1995); (d) reasoning (Goldstein, 1988; Harland, 1996); (e) contingency contracting (Fox, 1996; Harland, 1996; Landry, 1995 and (e) stress management including relaxation training (Fox, 1995; Goldstein, 1988; Landry, 1995). Miller et al.(1995) identify the bottom line for what works with this population: brief intervention, social skills training, behavioral self-control training, motivational enhancement, community reinforcement approach, and relaxation training. The four phases of CPP/SA programming utilizes all of these intervention strategies.

Data collection procedures throughout the treatment period will aid in the development of outcome measures that will validate the intervention strategies and the new program design. The critical changes include: clinical assessment to determine defendant need, motivation level, and amenability for treatment; matching the treatment delivery to the functioning ability and criminogenic needs of the individual defendant; objective monitoring of individual success throughout the treatment period; holding the defendant accountable for the necessary changes in both substance abusing and criminal behavior patterns; and providing empirically validated intervention strategies that allow the defendant to apply learned behavior in their natural environments, thereby instilling prosocial decision making and substantially reducing the propensity and/or desire to continue to offend.

The most dramatic change is that CPP/SA is now research-based and its techniques are empirically validated. The philosophy is different and our mission has been altered to now include an impact on criminal recidivism rate as well as abstinence. These changes are deemed effective and necessary in the treatment of our clientele. Time will only tell. However, the message in the current research is pretty clear...cognitive-behavioral programming works!

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OUR NEW DEPENDENCY UNIT

By Dean Trebesch
Public Defender

What in the world, you may ask, do dependencies have to do with a criminal defense office?

Well, actually very little. However, we have always been more than simply a criminal defense office. The Public Defender enabling statute (A.R.S. Section 11-584) provides, for example, that we shall be responsible for involuntary commitment hearings held pursuant to Title 36. This civil function has long been ably performed by our Mental Health Unit (Mary Miller, Barbara Topf, Mary Ann Twarog, Connie Leon and Dick Rice).

Now, we have been authorized by the Board of Supervisors to venture into the dependency and severance arena, on a pilot project basis. The Legal Defender's Office will also join in the pilot project.

Counties in Arizona are statutorily obligated to provide legal representation for indigents on all juvenile dependency , and severance matters, and to provide guardians ad litem when appointed by the Superior Court. Until now, all legal representation in these cases has been provided by the County through private contract counsel retained by the Office of Court Appointed Counsel. Several large metropolitan areas, such as San Diego County, have realized cost savings by permitting the Public Defender and Legal Defender offices to handle these matters. In 1993, Robert Spangenberg, a consultant retained by Maricopa County to study the indigent representation system, strongly recommended providing dependency, severance and guardian ad litem representation this way.

However, without a change to the enabling statute, Public Defender and Legal Defender Offices were precluded from being appointed on such juvenile matters. Those changes were made during the 1996 legislative session.

With this authorization, these two offices will each begin a limited pilot project to determine the cost effectiveness of providing in-house legal representation. For the foreseeable future, the Office of Court Appointed Counsel will continue to have contract attorneys handle the balance of case assignments not absorbed by our two offices.

Michelle Lue Sang, currently our Juvenile Supervisor at our Mesa Office, will take charge of this

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new responsibility on May 19. She will be joined by Suzette Pintard, also from our Mesa Juvenile office. Both bring legal backgrounds rich in juvenile experience.

In addition to five years of juvenile delinquency legal experience with this office, Michelle spent over two years as an Assistant Attorney General working in the child protective services and dependency area.

Suzette has devoted her last four years to juvenile delinquency legal work, and has supplemented her part-time work here for the past two years with a County dependency contract.

Sandi Sutphen will join the unit as its secretarial support. Over the next several months, two additional attorneys will be added and two Client Service Coordinators will be hired.

This office will focus on appointments for children from birth to eight years of age, whether it is as attorney or guardian ad litem, while the Legal Defender will serve adults in such matters and in severance proceedings. We hope that Client Service Coordinators, with a social work or child protective services background, can alleviate much of the attorney time normally devoted to child monitoring and service issues. Through this emphasis, we will strive to deliver quality legal services at a reasonable cost.

Beginning around the first of June, our dependency staff will be housed on the second floor of the Luhrs Tower. By that time, they will officially start taking case assignments. Please feel free to stop by in June and make them feel welcome. ■

SELECTED 9TH CIRCUIT OPINIONS

By Louise Stark
Deputy Public Defender

UNITED STATES OF QUALLS __F.3d __ (9th Cir. Cal. 1997) 1997 U.S. App. LEXIS 3785

Qualls was charged in federal court in this case for being a prohibited possessor, or felon in possession of a firearm. Qualls argued that he had retained all civil rights, including firearm possession upon his state felony conviction and probation grant. Upon placement on probation state law did not automatically revoke civil rights. Nor did Qualls' state prior carry any special provision forfeiting civil rights, so he had retained them. At the time of the state conviction state law had prohibited a felon from possessing only certain types of firearms. Even in the absence of an appropriate objection or request for a jury instruction which would limit the types of firearms which could support conviction, it was "plain error" to fail to instruct that the jury could only convict for possessing the particular firearms prohibited to him. The error "affects ... substantial rights and the fairness of the proceedings" because it is impossible to tell whether the jury found him guilty on permissible grounds, requiring reversal.

MITCHELL v. PRUNTY, __F.3d __ (9th Cir. Cal.1997) 1997 U.S. App. LEXIS 3396, rehearing denied 1997 U.S. App. LEXIS 6643

Second degree murder conviction reversed on insufficient evidence of aiding and abetting second degree. Mitchell was charged with first degree murder of a member of a rival gang who was first shot, then run over with a car. The shot was survivable with normal medical attention. The injuries from the car were not. In special findings the jury rejected the allegations that Mitchell fired the gun or drove the car. They acquitted of first degree murder. They did convict of second degree as a necessarily included offense. Because of the special findings the conviction could only be sustained on the grounds that Mitchell was an aider and abettor. This requires that he acted with knowledge of the unlawful purpose of the principal, and with his own intent to commit, encourage or facilitate the commission of the offense, and by word or deed promotes encourages, or instigates the crime. The requisite intent must be formed prior to or during the commission of the offense allegedly aided. There was proof of no more than mere presence in the car, not the *mens rea* or actions that are elements of "aid and abet." The court rejected the state's attempt to use gang membership as evidence to sustain the conviction. Simply wanting the victim dead, escalating the gang warfare atmosphere, and remaining with his gang members during the activities only suggested impermissible guilt by association. "Membership in a gang cannot serve as proof of intent, or of [the activities which] establish aiding and abetting. To hold otherwise would invite absurd results. Any gang member could be held liable for any other gang member's act ...predicated on the 'common purpose of fighting the enemy.'" (Internal quotation marks and citation omitted) On these facts the court held that there was no evidence from which a rational jury could infer Mitchell aided and abetted a murder, and reversed, contrary findings by the state court and lower federal court.

UNITED STATES v. JOE SAYETSITTY __ F.3d__ (9th Cir. Ariz. 1997) 79 U.S. App. LEXIS 3594

At the end of an evening drinking and supporting his brother in a fistfight, Appellants's brother told him

(cont. on pg. 9)☞

"when [the victim] comes by here, throw him down." Joe threw the victim to the ground by the shoulders, and both brothers kicked him in the head, from which he died. Without objection the court instructed the jury that voluntary intoxication could be considered in determining if the government proved Joe acted with the required intent for first degree murder; it could not be used to negate whatever mental state (general, not specific intent) was required for second degree or manslaughter. On appeal from a conviction for second degree murder the conviction was reversed due to error in omitting an instruction that evidence of voluntary intoxication could be considered in determining whether the government proved the *mens rea* for **aiding and abetting** second degree murder.

McDOWELL v. CALDERON ___ F.3d ___ (9th Cir. Cal. 1997) 1997 U.S. App. LEXIS 3422

In appeal from death penalty defendant claims jurors improperly considered extrinsic information in deciding penalty. One juror gave evidence that she was the lone holdout against the death penalty, but did not feel he should ever be released, and felt the available "life without parole" would be the appropriate sentence. The majority railed at her that "LWOP" did not mean what it said, defendant would be released in 15 years, and the death penalty would never be carried out. The juror caved in on the firm belief that defendant would never really suffer the death penalty. The affidavit with the juror's declaration of all this was an inadmissible inquiry into deliberative processes and motives in the argument to reverse the death penalty. No fairness problem there. Also exhaustive discussion of why various acts or omissions of counsel were not ineffective. ■

ARIZONA ADVANCE REPORTS A Summary of Criminal Defense Issues: Volumes 239-241

By Steve Collins
Deputy Public Defender

State v. Gaines, 239 Ariz. Adv. Rep. 3 (CA 1, 3-13-97)

In a burglary case the defense was misidentification. A witness testified the perpetrator had distinctive eyebrows. Defendant chose not to testify but defense counsel had defendant show the jury his eyebrows which were not unusual. The trial judge then allowed the prosecutor to cross-examine defendant regarding his physical characteristics. The Court of Appeals held the display of the eyebrows was not testimony and it was a violation of the Fifth Amendment's privilege against self-incrimination to compel defendant to testify. The court noted the federal and Arizona privileges against self-incrimination are "substantively identical." The court held the error was not "structural error." Therefore, harmless error analysis applies. The case was reversed because the court could not say beyond a reasonable doubt, that the error did not affect the verdict.

State v. Singer, 239 Ariz. Adv. Rep. 27 (CA 1, 3-27-97)

A Phoenix ordinance prohibits the keeping of a dog in the habit of disturbing the peace and quiet of "any person." There is an inherent presumption that "any person" refers to a "reasonable person." Therefore, the statute is not void for vagueness.

State v. Superior Court (Moore) 240 Ariz. Adv. Rep. 3 (CA 1, 4-3-97)

This case originated in municipal court and a direct appeal was taken to superior court. There was no further right to appeal. A special action to the court of appeals was the only means to obtain further review. Husband owned a house in joint tenancy with his wife. He was guilty of criminal damage to the property "of another" because he kicked in the door of the house.

State v. Brown, 240 Ariz. Adv. Rep. 14 (CA 2, 3-27-97)

The record on appeal did not show if a not guilty verdict form was given on a lesser-included offense. The Court of Appeals would not consider the issue on appeal because, "a matter not contained in the record on appeal is presumed to support the trial court's decision." Defendant must seek relief through a petition for post-conviction relief. It was also held that entering a vehicle with the intent to steal the vehicle itself, constitutes burglary.

State v. Rivers, 240 Ariz. Adv. Rep. 28 (CA 1, 4-10-97)

Defendant was serving the remainder of his prison sentence at home and was being electronically monitored with an ankle-bracelet transmitter. When the monitor showed defendant failed to return home for five days, he was charged with escape. At trial, the parole officer was unable to explain how the monitoring equipment worked from "a scientific standpoint." He testified the ankle-bracelet had been installed properly and he had never received incorrect information from a monitor while working on 200 to 300 other home arrest cases. This was held to be a sufficient foundation to establish the equipment was working properly. The parole officer testified he telephoned defendant's home and was told by his wife he was not present. Defense counsel

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made a hearsay objection. The Court of Appeals held this evidence was admissible because it was told to the jury to show its effect on the parole officer, not for the purpose of showing defendant was not at home. Evidence was admitted at trial that defendant had failed a urinalysis by testing positive for cocaine and opiate use. The Court of Appeals held it was properly admitted as a prior bad act under Arizona Evidence Rule 404(b), because it went to motive. Defendant knew his home arrest was going to be terminated because of the "dirty urine."

In re: Eric L., 241 Ariz. Adv. Rep. 8 (CA 1, 4-17-97)

A juvenile's disposition hearing was April 25, 1996. However, the restitution issue was continued and the restitution order was entered on May 28, 1996. The notice of appeal was filed on June 11, 1996. The notice of appeal was timely as to the adjudication and disposition orders. At the juvenile's admission hearing, the judge failed to advise him of his right to remain silent and his right to confront accusers. The Court of Appeals held the admission was voluntarily and intelligently entered because the juvenile had signed an affidavit advising him of these rights. A judge in juvenile court does not have to order full restitution. Partial restitution may be ordered based on the juvenile's "age, physical and mental condition and earning capacity."

State v. Aro, 241 Ariz. Adv. Rep. 24 (CA 1, 4-24-97)

In order to steal the victim's vehicle, defendant dragged the victim from the vehicle and murdered him. Defendant was unable to move the vehicle because it would not start. Defense counsel argued there was no robbery because there was no "taking" of the vehicle. The Court of Appeals held "taking" means obtaining dominion over the property and does not require that the property be moved. It was also held that entering a vehicle with the intent to steal the vehicle itself, constitutes burglary. Failure to give a mere presence instruction was waived on appeal by defense counsel's failure to request the instruction. It was not fundamental error to omit this instruction because defendant claimed he was not present when the robbery and burglary were committed.

State v. Lemming, 241 Ariz. Adv. Rep. 3 (CA 1, 4-17-97)

Arizona Criminal Procedure Rule 8.2(a) provides a person shall be tried within 150 days of arrest. The Court of Appeals held "arrest" does not apply to the initial arrest immediately after the alleged commission of an offense. Rather, "arrest" refers to an arrest pursuant to a warrant issued after defendant is charged by complaint, indictment or information. Therefore, Rule 8 does not apply to preindictment delay. In the specific area of DUI prosecutions the strict application of Rule 8.2(a) does not apply. If charges are initially dismissed and later refiled by the state, the 150-day limit begins anew. Defendant was not charged with DUI until more than one year after his "initial" arrest. It was held there was no due process violation because defendant failed to prove intentional delay by the prosecution to gain a tactical advantage. He also failed to prove actual and substantial prejudice caused by the delay. "The unavailability of a witness, without more, is not enough to establish prejudice."

State v. Medina, 241 Ariz. Adv. Rep. 6 (CA 1, 4-17-96)

Defendant was arrested for DUI on November 13, 1993. No charges were filed at that time. In July 1994, a warrant was issued for defendant's arrest but it was not executed until January 1996. On February 7, 1996, defendant waived his right to a preliminary hearing and was held to answer before the superior court. Speedy trial rights under the Sixth Amendment do not attach until a defendant is held to answer. Here, the rights did not attach until February 7, 1996. There was no due process violation under the Fifth Amendment because defendant failed to prove actual and substantial prejudice caused by the delay. He also failed to prove intentional delay by the prosecution to gain a tactical advantage.

State v. Sanchez, 241 Ariz. Adv. Rep. 26 (CA 2, 4-15-96)

Defendant was convicted of aggravated DUI. He was sentenced to three years probation with four months in prison to be followed by twelve months in jail. It was an illegal sentence because a trial court is prohibited from imposing more than one year of confinement during a period of probation. The sentence was reduced to four months in prison to be followed by eight months in jail. At trial, defendant objected to the admission of the implied consent form. He claimed it improperly introduced evidence about possible punishment. The Court of Appeals held the form was properly admitted to meet the foundational requirements for admission of defendant's breath test results. The court found the information that driving privileges might be suspended did not refer to possible punishment under the criminal code. ■

BULLETIN BOARD

◆ *New Attorneys*

Roderick Carter, a Law Clerk in Group A, has passed the Bar and been assigned to Trial Group A. Mr. Carter graduated from the University of Colorado at Boulder in Political Science and then obtained his J.D. from Arizona State University College of Law.

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Susan Harward, another Law Clerk from our Office, working in Juvenile, has also passed the Bar and will be continuing her assignment in Juvenile as a new attorney. Ms. Harward attended Arizona State University and obtained a B.S. in Business and a J.D. in Law. She is also a former participant in the Public Defender's Externship Clinic.

Kirk Morris has joined the office as an attorney working in Juvenile (SEF). Prior to joining the office, Mr. Morris was a solo practitioner in general practice. He obtained his J.D. from the California Western School of Law at San Diego and a B.A. in Communication from Arizona State University. He is fluent in Spanish and Portuguese.

Rob Rosette recently completed "New Attorney" training and has begun practice in Group B. Mr. Rosette received his J.D. and MBA from Arizona State.

Maria Schaffer, a law clerk in Group D, also passed the Bar. Prior to Ms. Schaffer's employment with our office, she was a Deputy Public Defender in the Office of the State Public Defender in Colorado. Ms. Schaffer graduated from the University of Arizona with a B.A. in General Studies and obtained her J.D. from the University of Denver college of Law. Ms. Schaffer is assigned to Trial Group D.

◆ *Attorney Moves/Changes*

Shellie Freeman Smith is filling Michelle Lue Sang's "shoes" as the new Mesa Juvenile Supervisor.

Michelle Lue Sang has been named to head up the new Dependency Unit located in the Luhrs Towers.

James Miller, a Trial Attorney in Group C, resigned from the office.

Patti O'Connor has resigned from her position at the Southeast Facility.

Suzette Pintard has relocated to the Dependency Unit.

Lisa Posada resigned from her position as a Trial Attorney in Group B.

◆ *New Support Staff*

Debby Brink is a new Legal Assistant assigned to Group A. Ms. Brink holds a B.S. in Criminal Justice from Radford University in Radford, Virginia and received her Paralegal Certificate from the Academy of Business College in Phoenix. Prior to her employment, she worked as a Paralegal in the firm of Snell and Wilmer.

Kathryn Camuso has joined the office as a Legal Secretary in Group D.

Frances Dairman returned to the office after a brief stint with the Adult Probation Department. Ms. Dairman was selected to fill the Training Coordinator position.

Francis Garrison was hired as a Legal Assistant assigned to Group A. Ms. Garrison graduated from Arizona State University with a B.A. in Political Science and then attended the Arizona Paralegal Training Program. During the latter part of 1996, she interned with our office in the Training Division.

Lee Ann Hudson has joined Group C as a new Legal Secretary.

Jeanine Jisr was recently hired as a Legal Secretary in Group A.

Kiera Lebet is a new Secretary at Juvenile Durango.

Emma Lehner has joined the office as a Law Clerk in Trial Group D. Ms. Lehner participated in the Office's Externship Program in the summer of 1995. Prior to joining the office, she was Judicial Intern for Wisconsin Supreme Court Justice Bablich. She received her BA in Anthropology from Stanford University and her J.D. from the University of Wisconsin Law School.

Jody Pesaresi is assigned to Trial Group C as a Law Clerk. Ms. Pesaresi is a recent graduate of the University of North Carolina School of Law. She has worked as a Legal Intern in the Office of the Public Defender in Carrboro, N.C. Ms. Pesaresi holds a B.A. in American Civilization from Brown University in Providence, R.I.

Tracy Randolph is a new Legal Secretary in Group C.

Mercy Tellez has joined our office as a legal secretary in Trial Group A.

Several new folks have been hired as Office Aides, **Matthew Elm** (Trial Group B), **Christopher Hyler** (Trial Group B), **Kelly Plunkett** (10th Floor Receptionist), and **Rebekah Shehorn** (Trial Group B).

◆ *Support Staff Moves/Changes*

Larry Beasinger is retiring from his position with

(cont. on pg. 12)☞

Information Systems. Larry has been a long-time employee and is wished all the best.

Connie Boyer has resigned from her position as a Legal Secretary in Group D to work as an Adult Probation Officer.

Monique Kirtley is shifting from part-time employment as Group C's Law Clerk to full-time status as our Juvenile Law Clerk.

Angelina Medina, an Office Trainee, recently resigned from the office.

Sherry Pape, formerly working in the Training Division, has relocated to Group B as a Legal Secretary

Sylvia Silva has resigned as Legal Secretary in Group C.

Also resigning from Group C is Legal Secretary, **Linda Ahlborn.** ■

SUBMIT YOUR ENTRIES NOW!

IT'S CONTEST TIME AND YOU COULD WIN!

The contest is on now! So get your pen or keyboard in gear. **First prize is tickets for two to a SUNS game.**

The *for the Defense* contest is for the members of the Maricopa County Public Defender's Office during the months of May through July. Submit an original, unpublished, educational article of 200 words or more regarding criminal defense. If the article is accepted for publication (after a standard screening by the staff), the author automatically is entered in the contest.

All qualifying articles published in the newsletter during the months of April, May, June and July will be reviewed by a distinguished panel of judges. The judges will be looking for creative and thought provoking writing on educational, criminal defense topics.

✍ Articles need to be submitted by the 10th of the month to be considered for that month's issue. Submit to Russ Born, Training Director.

✍ No staff member of *for the Defense* is eligible to win.

✍ Winners will be announced in the August issue of *for the Defense.*

■

COMPUTER CORNER

By Susie Tapia & Gene Parker
Information Technologies-Help Desk

Introducing...

the newly designed PD's Letterhead and Envelope forms.

Under the direction of Dean Trebesch, Gene Parker of the I.T. department has redesigned the letterhead and envelope documents. The finished product boasts a professional design, the updated County Seal, specific addresses and phone numbers for each division and each groups' management team listed on the right side.

The new documents are located on the S:\PD_FORMS directory. Each of the forms are in a separate subdirectory. The filename is coded to distinguish the group and floor for each document.

example: lhappeals -Letterhead for Appeals
lhgrpd9 - Letterhead GroupD 9th Floor

In WordPerfect, when accessing the document using the File,Open commands,
view the descriptive name at the bottom to ensure you are selecting the correct form.

Automated Court System

Now available to the Public Defender's Office is the Automated Court System (ACS). This system is used by the divisions to manage their cases. It contains case information (parties, attorneys, charges, judge assignments, etc), calendar information (dates and types of hearings and outcome of hearings), attorney information (searches can be performed to itemize an attorneys hearings for a specified time period) and docket information (itemization of all documents in court file).

Mary Griffith's personal computer, in Records, is connected to the ACS. Contact Mary at 8345 for more information.

May's FLIP-ITS: GroupWise Rules

Contact the Help Desk at x6198 for information. ■

APRIL, 1997
Jury & Bench Trials

Group A

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
3/31-4/1	Kent/ Robinson	Bolton	Eckhardt	CR 96-05862 Agg DUI/F4	Guilty of lesser/Misd.	Jury
3/25-4/3	Lackey	Mangum	Hernandez	CR 96-06236 Agg Assault/F3D	Hung (7-1 not guilty)	Jury
4/2-4/3	Farney/ Jones	Yarnell	Rehm	CR 96-05069 Agg DUI/F4N	Guilty	Jury
4/3-4/9	Bond	Lewis	Lawritson	CR 96-10831 Agg DUI(x2)/F4	Guilty	Jury
4/14-4/15	Davis	Martin	Levine	CR 96-09132 PODD/F4	Guilty	Jury
4/14-4/28	Corey, Clark	Chavez	Altman	CR 95-04981 Agg Assault(x3)/F2 Agg Assault/F3 Ftl Purs Law Veh./F5	Guilty on 3cts Agg Assault, Not Guilty Flt Purs Law Veh.	Jury
4/15-4/30	Timmer/ Robinson	Mangum	Roberts	CR 96-08229 Child Molest(x8)/F2 Child Molest(x4)/F4	Guilty all counts	Jury
4/17-4/23	Rempe/ Greth	Sticht	Davis	CR 96-05068 PODD/F4	Not Guilty	Jury
4/17-4/23	McAlister, Porteous/ Yarbrough	Yarnell	Manning	CR 96-02343 Agg DUI w/2 priors/F4	Guilty	Jury
4/24-4/30	Lackey/Rock	Cole	Skibba	CR 96-02422 Agg Assault/F2	Guity	Jury

Group B

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
4/30/97- 5/1/97	Richard Luna	Andrew Gastelum (Justice Court)	Carolyn Robinson	TR96-05756 DUI	Not Guilty	Jury
3/24/97 - 3/26/97	Pebby LeMoine/ John Castro	Susan Bolton	Alan Davidon	95-06147 Kidnap, F2 Att/Comm. Murder, F2 Agg. Asslt., F3 Burglary, F3 Miscndct w/wpn, F4	Not Guilty Not Guilty Guilty Guilty Guilty	Jury
4/2/97 - 4/3/97	Frances Gray/D. Erb	Hotham	Grimes	96-05867 PODD, F4	Not Guilty	Jury
4/8/97 - 4/9/87	Frances Gray	Ortiz	Gardner	TR 96-03802 DUI, A1 DUI, A2	Not Guilty Guilty	Jury
3/31/97 - 4/9/97	Larry Blieden	Wilkinson	Juan Martinez	96-00654 2 Cts. Murder 1, F1	Guilty	Jury
4/14/97 - 4/16/97	Larry Blieden	Arellano	Susan Skibba	96-12628 Burglary 1, F2 Kidnap, F2 Agg. Asslt., F3	Directed Verdict	Jury
4/16/97- 4/21/97	Charles Vogel	Bethany Hicks	Marc Pappalardo	97-00207 1 Ct. Agg. Asslt. F3	Guilty	Jury
4/21/97- \4/24/97	Alex Navidad	Nellie Soto	John Boyle	TR 96-05621 2 Cts. DUI Mis. 1	Guilty	Jury

Group C

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
3/ 27 -4/2	Vaca	Hendrix	Puchek	CR96-94571 1 ct. Agg Aslt, F4	Hung Jury (5 NG, 3 G) 4/30 Dismissed w/Prejudice	Jury
3/31 -4/14	Schumacher Schmich/ Beatty	Araneta	O'Connor	CR96-90193 Murder 2, F1	Not Guilty, Murder 2 Hung Jury, Manslaughter (6 NG, 1 G, 1 Undecided)	Jury
4/3 -4/9	Leonard, Nermyr	Ishikawa	Maxwell	CR96-92265 1 ct. Agg DUI, F4 1 ct. Agg Dr. BA ov. .10	Guilty on both	Jury
4/4-4/9	Antonson	Armstrong	Alt	CR96-94666 Escape 1st D., F4 Resisting Arrest, F6 Agg Asslt, F6	Guilty Guilty Not Guilty	Jury
4/8-4/28	Vaca/ Dew	Hendrix	O'Neill	CR96-91000 Attempt Murder, F2 Child Abuse, F2	Guilty Guilty	Jury
4/8	Lorenz/Thomas	Schafer	Harris	CR96-94989 Escape 2nd D., F5	Not Guilty	Jury
4/11-4/15	Miller	Skousen	Freeman	TR96-12535 DUI, M1	Guilty	Jury
4/15-4/18	Ramos/ Breen	Araneta	McCauley	CR96-93811 POND, F4	Guilty	Jury
4/28	Corbitt/ Beatty	Hendrix	Gundacker	CR90-90717 DUI, F5	Still on-going.	Jury

Group D

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
4/1/97-4/2/97	Larsen/ Bradley	D'Angelo	Myers	CR 96-09748 SOND w/priors class 2	Guilty	Jury
4/2/97-4/8/97	Hoff	Rogers	Gialketsis	CR 96-01020; Agg Robbery, class 3	Guilty/lesser-included Robbery	Jury
4/8/97-4/10/9	Zielinski, Leyh	Hicks	Kuffner	CR96-10587 PODD, class 4 and PODP, class 6	Guilty	Jury
4/9/97-4/14/97	Houle/ Fusselman	D'Angelo	Johnson	CR 95-12241 SOND class 2,w/priors, on parole	Not Guilty	Jury
4/15/97-4/17/97	Bevilacqua/ Payne	Rogers	Jones	CR 96-05120, Sex Abuse w /Minor under 13, class 3	Not Guilty	Jury
4/14/97-4/16/97	Nickerson	Nastro	Tucker	CR 96-10132 2 counts Agg. Assault class 3	Not Guilty	Jury
4/16/97-4/22/97	Larsen	D'Angelo	Newell	CR 96-10403 Agg. DUI, class 4	Not Guilty	Jury
4/24/97-4/25/97	Wallace/ Bradley	Martin	Kuffner	CR 96-11466 Forgery class 4	Not Guilty	Jury
4/21/97	Dichoso-Beavers	Gutierrez	Smith	MCR 96-02794 Misd. Assault	Guilty	Bench
4/29/97	Nickerson	McBeth	Farnum	CR 96-04612MI I.J.P.	Dismissed	Bench

OFFICE OF THE LEGAL DEFENDER

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
2/27-4/24	Taylor/Soto	Cole	Howe	96-05370 3 Cts.Burglary, C2D 3 Cts. Armed Robbery,C2D 3 Cts. Sex.Asslt., C2D 2 Cts. Sex.Abuse,C5D 3 Cts. Kidnapping,C2D 4 Cts. Agg.Asslt., C3D 1 Ct. Theft, C2D	 Directed Verdict on 2 Cts. Burg., Guilty of 3 Ct. Burg. Guilty Not Guilty Not Guilty Guilty Guilty Guilty	Jury
4/14-4/17	Allen	Scott	Craig/Harris	96-90914 Agg.Assault,C4F	Not Guilty	Jury
4/21-4/30	Alldredge	Nastro	Tucker	96-09616 2 cts.Kidnap,C2D 4 cts.Agg.Assault,C3D	 Not Guilty of 2 Cts.Kidnapping Guilty of Lesser Incl. Unlawful Imprisonment (Non-dangerous) Not Guilty on 4 courts Agg.Assault	Jury
4/2-4/7	Orent	Hendrix	Reuter	96-93176 Impt/Trsp.Narc.Drug for Sale, C2F	Guilty	Jury

MARK YOUR CALENDARS FOR THE UPCOMING SEMINAR...

"TOEING THE ETHICAL LINE AT TRIAL"

Ethical and Practical Trial Hints

FRIDAY, JUNE 27TH

BOARD OF SUPERVISOR'S AUDITORIUM

9:45 - 10:00	Registration	
10:00 - 10:30	Ethical Considerations During the Discovery Process	*Russ G. Born*
10:30 - 11:15	Severance Issues & 404B: Effective Representation Without Losing Your Head (or Bar Card)	*Anna M. Unterberger* *James R. Rummage*
11:15 - 11:45	Ethical Discrimination? Batson and Its Ethical Implications	*Lawrence Matthews*
11:45 - 1:15	Lunch	
1:15 - 2:45	Ethical and Practical Impeachment	*Christopher Johns*
2:45 - 3:00	Break	
3:00 - 3:45	My Favorite Bar (Opinions & Issues) Panel Discussion:	*Russ G. Born* *Susan Corey* *Robert Guzik* *Margot Wuebbels*

This program may qualify for up to 4.00 hours CLE with the Arizona State Bar